

MEMORANDUM

TO: City Council
FROM: Steve Westbay
DATE: March 10, 2015
RE: Meadow Mall Parking Lot

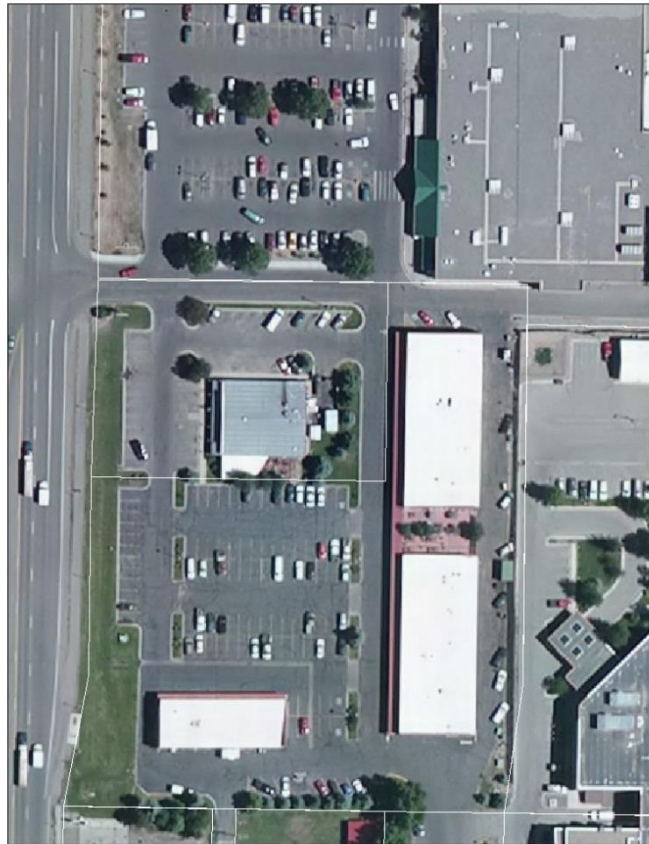
Recently, Council directed staff to review the deteriorating parking lot at the Gunnison Mountain Meadows Mall parking lot and provide a report addressing potential action options that may be taken to resolve this issue. This memorandum summarizes the historical context of the PUD development, existing adopted codes that may be used to address the issue, and the options that may be followed for resolution of the matter.

History

Development plans for the general area of the Mall were initiated in the late 1970's by the Amex Corporation when the subject property was a Commercial District zoning designation. In 1985 a Planned Unit Development zoning designation, was passed by the Council. Subsequent to the PUD zoning, the Meadows subdivision, which included the Phase 1 (Tract 1 Commercial) was approved and signed by the City. The PUD provided details associated with street layout, utility service extension, and storm water drainage control. The plat also included a landscaping plan and general signage plan that constitutes the majority of the PUD design considerations. In 1986 an amended plat of the Phase 1 (Tract 1, Commercial) was approved. The 1986 plat denotes the basic configuration of lots as they exist today.

Existing Codes

The 1985 Meadows PUD had no regulatory oversight provisions that empowered the City to enforce property maintenance. In fact, PUD's are generally intended to promote enhanced design by providing certain latitude that is not afforded by traditional zoning codes – PUD's generally address architectural design, streetscape, signage and other similar design related matters. Shared maintenance responsibilities are usually addressed via covenant declarations, cross-easement agreements or similar binding documents that are enforceable by private property owners who have a vested interest in those related matters.



The City of Gunnison Land Development Code (LDC) does not have specific standards that apply to the maintenance of private property, but the *City of Gunnison Municipal Code* (GMC) has two regulatory provisions that are intended to address issues arising on private property that may present health, safety and welfare concerns. Chapter 5.30 (Nuisances) of the GMC regulates unlawful activities to include

offences such as prostitution, theft, gambling, trash, weeds and anything declared to be a nuisance as defined by state statutes (C.R.S. §16-13-305, Conditions Property) and adopted municipal ordinances.

The second regulatory provision is found in Title 14 of the GMC (Technical Codes), which includes the Building Codes, Fire Code, and the Property Maintenance Code. The Meadows Mall parking lot condition could be addressed under certain provisions of the International Property Maintenance Code as well as the International Fire Code.

Action Options

The staff has identified three action options that may be taken by the City. The first option is to take no action. The dilapidated parking lot is a private property issue and the City should consider what level of involvement is prudent. Many other private parking lots in the city have potholes and deteriorating pavement, and if enforcement is taken on one parking lot should there be retroactive response to identify and act on all problematic parking lots?

The second action option is aligned with existing protocol, to incorporate “Community Policing” when dealing with issues on private property. Presently, when there are complaints or issues with municipal code violations on private property the staff follows a three-step sequential process: 1. personal contact with the property owner is made by city staff and the discussion ensues to try and find resolve to the specific issues; 2. send a formal written notice to the property owner if the personal contact approach does not work, which includes the identification of specific code violations; and 3. take action to resolve the issue at hand. City staff relies heavily on the philosophy of community policing, which is to have direct contact with the property owners and allow them to provide a means for resolving an issue. Additional steps can be taken if the direct communication approach does not work.

The third action option is to initiate formal notice and potential legal action. If this approach is taken, a formal notice and order is sent to the property owners, with an order to resolve the issue within a specific timeframe. If the formal notice and order does not result in an appropriate resolution, then the matter moves forward under the legal confines established by the GMC. As previously noted, the parking lot issue may fall under the provisions of the International Property Maintenance Code, the International Fire Code and the City Nuisances Code.

Conclusion

The Meadows Mall Parking lot issue is not clear-cut because it is a private property issue and apparently the respective property owners are not willing or not able to agree on a strategy to resolve the issue. Obviously, there may be life-safety issues but emergency vehicles can and will respond to calls that may originate from businesses in the mall – presently issues are likely related to automobile damage which are issues between the car owner and the property owner. If the City Council directs the staff to initiate formal actions, the three step process (personal contact, written notice, legal action) should be followed. However, it is very likely that legal recourse will be required. Legal action has larger implications when considering whether or not, all property owners with deteriorated parking lots in the city should be treated in the same manner.